

## **Rule 103. Institution of Suit and Pleadings**

### **1. Civil Cover Sheet/Extra Copies of Complaint/Designation of Related Cases**

#### **a. Civil Cover Sheet and Extra Copies of Complaint**

When filing a complaint, counsel shall submit to the Clerk a complete civil cover sheet and two copies of the Complaint.

#### **b. Related Cases**

##### **i. Designation by Plaintiff**

If counsel for a plaintiff in a civil action believes that the action being filed and one or more other civil actions or proceedings previously decided or pending in this Court (1) arise from the same or identical transactions, happenings, or events; (2) involve the identical parties or property; (3) involve the same patent or trademark; or (4) for any other reason would entail substantial duplication of labor if heard by different judges, counsel shall indicate that fact by designating the case as a "related case" on the civil cover sheet. A copy of the cover sheet shall be served on all parties.

##### **ii. Designation by Defendant**

If counsel for a defendant believes that a case is related to a prior case and that fact has not been noted on the civil cover sheet by plaintiff, counsel for the defendant shall bring that information to the attention of all parties and the Clerk, and the Clerk shall note it on the cover sheet and inform the judge to whom the new case has been assigned.

##### **iii. Resolution of Disputes**

Any disputes regarding the designation of a case as being related to another case shall be presented by motion to the judge to whom the new or later case has been assigned.

## 2. **Process**

### a. **Number of Copies**

Counsel shall submit to the Clerk the following number of copies when process is to be served: (a) two copies of any summons for each party to be served; (b) four copies of a warrant for arrest or summons with process of maritime attachment and garnishment for tangible property or two copies of such papers for intangible property; and (c) two copies of all writs, including writs of possession, replevin, execution, garnishment and attachment before a judgment.

### b. **When Served by Marshal**

Unless otherwise ordered by the Court, the United States Marshal shall not serve any process or subpoenas except the following: (a) all process for a party proceeding *in forma pauperis* without counsel, (b) warrants of arrests *in rem* or process of maritime attachment and garnishment, (c) writs of possession, replevin, execution, garnishment and attachment before a judgment, (d) process served under 28 U.S.C. § 2361, and (e) when requested by the plaintiff, process in suits where the plaintiff is authorized to proceed as a seaman under 28 U.S.C. § 1916. Unless otherwise ordered by the Court and except for a party who is proceeding *in forma pauperis* or as a seaman under 28 U.S.C. § 1916, the Marshal may require a party to pay or secure the fees and expenses before serving any process which this Rule requires that the Marshal serve.

### c. **Waiver Procedure**

Whenever the waiver procedure under Fed. R. Civ. P. 4(d) is invoked, counsel shall submit to the Clerk a written notice identifying the defendant(s) to whom the notice and request to waive service of summons is being sent.

The notice shall be filed upon the filing of the complaint or such later date that counsel decides to invoke the waiver procedure.

## 3. **Disclosure of Affiliations and Financial Interest**

When filing an initial pleading or promptly after learning of the information to be disclosed, counsel shall submit to the Clerk two copies of a written statement (separate from any pleading) containing the following information:

### a. **Corporate Affiliation**

The identity of any parent or other affiliate of a corporate party and the description of the relationship between the party and such affiliates.

### b. **Financial Interests in the Outcome of the Litigation**

The identity of any corporation, unincorporated association, partnership or other business entity, not a party to the case, which may have any financial interest whatsoever in the outcome of litigation, and the nature of its financial

interest. The term "financial interest in the outcome of the litigation" includes a potential obligation of an insurance company or other person to represent or to indemnify any party to the case. Any notice given to the Clerk under this Rule shall not be considered as an admission by the insurance company or other person that it does in fact have an obligation to defend the litigation or to indemnify a party or as a waiver of any rights that it might have in connection with the subject matter of the litigation.

**4. Security for Costs**

Any party against whom affirmative relief (other than a compulsory counterclaim) is filed may file a motion requesting that the party seeking the affirmative relief give security for costs if that party is not a resident of this District. Upon the filing of the motion, the Court shall issue a show cause order to the party seeking affirmative relief. A party who does not show cause why such security should not be required shall deposit with the Clerk on the date that the show cause response is due or on such later date as may be set by the Court the sum of \$150 or such higher amount as the Court determines is appropriate. The Court may dismiss the claim of a party who fails to deposit the required security. This Rule shall not apply to any party proceeding *in forma pauperis* or as a seaman under 28 U.S.C. § 1916.

**5. Removal**

**a. Certification of Filing of State Court Papers**

Any party effecting removal shall file with the notice true and legible copies of all process, pleadings, papers and orders which have been served upon that party. Within 30 days thereafter the party shall file true and legible copies of all other papers then on file in the state court, together with a certification from counsel that all filings in the state court action have been filed in the United States District Court.

**b. Filing Memoranda Regarding Pending Motions**

If a motion is pending at the time of removal as to which a legal memorandum has not been submitted, the moving party shall file a supporting memorandum within fourteen days of the date of removal. If at the time of removal a motion is pending as to which a legal memorandum has been submitted, the party opposing the motion shall file an opposition memorandum on the date that the opposition memorandum was due in the state court or within fourteen days of the date of removal, whichever is earlier.

**6. Amendments of Pleadings**

**a. Original of Proposed Amendment to Accompany Motion**

Whenever a party files a motion requesting leave to file an amended pleading,

the original of the proposed amended pleading shall accompany the motion. If the motion is granted, an additional copy of the amended pleading need not be filed. The amended pleading shall be deemed to have been served, for the purpose of determining the time for response under Fed. R. Civ. P. § 15(a), on the date that the Court grants leave for its filing.

b. **Exhibits to Amended Pleadings**

Unless otherwise ordered by the Court, only newly added exhibits are to be attached to an amended pleading. However, if the amended pleading adds a new party, counsel shall serve all exhibits referred to in the amended pleading upon the new party.

c. **Highlighting of Amendments**

Unless otherwise ordered by the Court, the party filing an amended pleading shall provide to all counsel and to the clerk (1) a clean copy of the amended pleading and (2) a copy of the amended pleading in which stricken material has been lined through or enclosed in brackets and new material has been underlined or set forth in bold-faced type.

d. **Requested Consent of Other Counsel**

Before filing a motion requesting leave to file an amended pleading, counsel shall attempt to obtain the consent of other counsel. Counsel shall state in the motion whether the consent of other counsel has been obtained.

7. **Third-Party Complaints**

a. **Filing**

A third-party plaintiff shall file with the Clerk only the third-party complaint itself and not all the prior pleadings attached thereto.

b. **Service**

Unless otherwise ordered by the Court, a third party plaintiff shall serve upon a third party defendant copies of all papers (other than notices of previously held depositions) which the parties have previously served upon one another and shall make all previously-conducted discovery materials available for review by the third party defendant.

8. **Dismissal for Want of Prosecution**

a. **Failure to Effect Service**

If a party demanding affirmative relief has not effected service of process within 120 days of filing the pleading seeking the affirmative relief, the Court may enter

an order asking the party to show cause why the claim should not be dismissed. If the party fails to show good cause within fourteen days of the entry of the order or such other time as may be set by the Court, the claim shall be dismissed without prejudice.

b. **Dormancy of Action for Nine Months**

If no paper has been filed in Court in any action for more than nine months, the Court may enter an order asking the parties to show cause why the case should not be dismissed. If good cause is not shown within fourteen days of the entry of the show cause order or such other time as may be set by the Court, the case shall be dismissed without prejudice.

9. **Scheduling Orders**

a. **Categories of Actions Generally Exempted From Fed. R. Civ. P. 16(b)**

All categories of actions in which ordinarily discovery is not conducted and additional parties are not added are exempted from Fed. R. Civ. P. 16(b). These categories of actions include petitions filed under 28 U.S.C. § 2254, motions filed under 28 U.S.C. § 2255, Social Security appeals, bankruptcy appeals, appeals on the record from administrative agencies, motions to enforce arbitration awards, forfeiture actions, actions seeking enforcement of judgments, and mortgage or deed of trust foreclosures. In all actions in which a scheduling order is not entered under Fed. R. Civ. P. 16(b), the presiding judge will enter such orders as are necessary to assure the prompt and expeditious resolution of the litigation.

b. **Actions Exempted From the Consultation Requirement of Fed. R. Civ.**

**P. 16(b)**

All actions except ones which the presiding judge notifies the parties that he or she designates to be complex, e.g., antitrust, mass tort, patent infringement, RICO and securities fraud actions in which all parties are represented by counsel, are exempted from the requirement of Fed. R. Civ. P. 16(b) that the Court consult with counsel (or unrepresented parties) or await a report from the parties under Fed. R. Civ. P. 26(f) before entering a scheduling order. All scheduling orders, however, shall provide that any party who believes that any deadline set in the scheduling order is unreasonable may request in writing a modification of the order or that a conference be held for the purpose of seeking a modification of the order.